

Exhibit A

4. Remedial Order No. 22 requires RCCL and any successor entities charged with inspecting child care placements to consider during such placement inspections “all referrals of, and in addition all confirmed findings of, child abuse/neglect and all confirmed findings of corporal punishment” occurring in the placement (referred to as Extended Compliance History Reviews or ECHRs), as well as monitor placement agencies’ adherence to obligations to report suspected child abuse or neglect. Where RCCL or any successor entity discovers a lapse in reporting, it must refer that to DFPS for immediate investigation.
5. As described below in more detail, HHSC has taken multiple steps to comply with Remedial Order No. 22.
 - a. With regards to the requirement that HHSC monitor placement agencies’ adherence to obligations to report suspected child abuse or neglect, RCCL inspectors conduct inspections and standards investigations at all licensed residential operations. During the course of an inspection or investigation, if information indicates an operation failed to report suspected abuse or neglect, a deficiency will be cited and is contained in the Child Care Licensing Automation Support System (CLASS).
 - b. With regards to the requirement that any lapses in reporting be referred to DFPS for immediate investigation, HHSC has had an automated report that has been in place prior to July 2019 that pulls deficiency information related to an operation’s failure to report suspected abuse or neglect that was cited during the investigations and inspections. This report had been run each business day until May 1, 2020 and provided via email to DFPS Residential Contracts Division, which is responsible for investigating placement agencies to determine appropriate corrective action, including termination or modification of the contract. Since May 1, 2020, the report has been run on a daily basis. and provided to DFPS Residential Contracts Division, when there is a citation to report; if there is no citation to report, an email stating that is sent instead.
 - c. Additionally, HHSC has implemented a process for compiling and performing ECHRs as required by Remedial Order No. 22. Data compiled since the September 2020 hearing confirms that HHSC’s efforts to comply with the ECHRs required in Remedial Order No. 22 have been successful. Accordingly, HHSC certifies compliance with Remedial Order No. 22. *See* RO.22 > RO 22.1 Rep.ANE.To.DFPS (daily reports that were provided to the Monitors via SharePoint starting on October 31, 2019) and RO.22 > RO.22.1 Rep.ANE.To.DFPS.B (monthly reports provided to the Monitors via SharePoint on May 21, 2020 that include a summary of deficiencies cited).
6. The ECHR process is completed in two steps. First, prior to conducting an inspection, the inspector is required to review the number of abuse/neglect intakes, confirmed findings of abuse/neglect, and confirmed findings of corporal punishment deficiencies for the placement, and assess risk based off this information. Then, after the inspection is complete, the inspector must document how this information and data is considered, including the steps taken to mitigate risk, in a narrative box within CLASS.

7. Data compiled from August 31, 2020 to December 29, 2020 shows 100% compliance with the pre-inspection requirements. This data is based on information gathered in CLASS, which requires an inspector to review and document the number of abuse/neglect intakes, the number of confirmed findings of abuse/neglect, and the number of confirmed findings of corporal punishment, as well as document his or her assessment of risk based off this information prior to going out on the inspection. *See* RO.22.5 ECHR summary provided to the Monitors on 12/31/2020.
8. The data also shows 89% compliance with documenting the steps taken to mitigate risk after completing the inspection. Inspectors are required to document in narrative form the steps taken to mitigate risk; this information must be entered within one calendar day of completing the inspection. Broken down by month, the data shows that in September 2020, there was a 79% compliance rate. The compliance rate increased to 94% for October 2020 and has remained above 90% in November (93%) and December (91% through the 29th). Additionally, as part of its ongoing compliance efforts, HHSC runs reports each weekday to monitor the timeliness of the completion of such steps. *See* RO.22.5 ECHR summary provided to the Monitors on 12/30/2020.
9. While the automation used to track compliance was not in place until August 31, 2020, HHSC's efforts to comply with Remedial Order No. 22 began long before that. In late November 2019, HHSC disseminated Field Communication #271 that provided instructions to RCCL inspectors for completion of ECHR. A field communication is a mechanism RCCL uses to implement new policies prior to the Child Care Licensing Policy and Procedure Handbook ("CCLPPH") being updated. Any policy changes communicated via a field communication replace any existing policies or add new policies. Field Communication #271 included instructions to inspectors to conduct the ECHR review and assessment prior to the inspection and further provides that inspectors had 24 hours after completing the inspection to document steps taken to mitigate any risks identified as a result of the ECHR assessment. *See* RO.22 > Reference Documents provided to the Monitors on 1/27/2020.
10. On November 22, 2019, HHSC provided training on performing ECHR via a recorded webinar that all RCCL inspectors and supervisors were instructed to review. *See* RO.22 > Reference Documents provided to the Monitors on 1/27/2020.
11. On December 1, 2019, the policies communicated through Field Communication #271 related to ECHRs became effective. The policies required the ECHR to take place before monitoring inspections, investigation inspections, and monitoring/investigation inspections. To do this, inspectors were (and are) required to document in CLASS the number of abuse/neglect referrals, confirmed abuse/neglect findings, and confirmed findings of corporal punishment for the last five years, as well as a narrative description of how this data and information was considered. Then, during the onsite inspection, RCCL inspectors are required to take steps to mitigate the risk identified from the information gathered before the inspection, as well as risks identified during the inspection. After the completion of the inspection, RCCL inspectors document what steps were taken to address and mitigate the risk identified. Initially, inspectors were

required to complete this documentation within 24 hours of the inspection; as discussed below, that deadline was clarified in October 2020 to be within one calendar day of the inspection.

12. Beginning in December 2019, HHSC provided RCCL inspectors with access, on a monthly basis, to the Abuse or Neglect Report and the Corporal Punishment Report that must be reviewed by the inspector and used to compile an operation's extended compliance history with respect to child abuse and neglect referrals, confirmed findings of child abuse or neglect, and confirmed minimum standards citations for corporal punishment during the relevant five- year period. *See* RO.22 > RO.22.4 ECH.ANE.Intakes.B and RO22 > RO.22.4 ECH.Corp.Punishment.A, provided monthly to the Monitors starting in May 2020.
13. In addition to the monthly reports, prior to September 15, 2020, the inspector was required to review the operation's history in CLASS for the then-current month, to ensure that any new history not included on the monthly reports are also considered as part of the assessment for the extended compliance history review. Beginning September 15, 2020, HHSC modified the Abuse or Neglect Report and the Corporal Punishment Report to run daily and contain the five-year rolling history for the operation, allowing the RCCL inspector to view the operation's history without having to take additional steps.
14. HHSC provided additional training sessions regarding ECHR requirements to all RCCL inspectors/supervisors on August 5 and August 11, 2020. HHSC also developed a job aid distributed in August 2020 that provided additional information and training for RCCL inspectors regarding the purpose of ECHR and guidance on completing assessment narratives prior to the inspection, as well as completing the steps take to mitigate risk after an inspection. This job aid included an overview of the purposes of ECHR, instructions for completing the reviews, a checklist to ensure that all steps are completed, and an example of an ECHR entry. *See* RO.22 > Reference Documents provided to the Monitors on 11/5/2020.
15. On August 31, 2020, HHSC implemented new functions in CLASS that created a specific location for the ECHRs to be documented. A RCCL inspector is not able to complete an inspection without first gathering, documenting, and assessing the number of abuse/neglect intakes, confirmed findings of abuse/neglect, and confirmed findings of corporal punishment, and providing a narrative description documenting the assessment of risk based off this information. The new functions also provide a reminder to RCCL inspectors to document the steps taken during the inspection to address any risk factors within one calendar day of completing the inspection. These steps taken to mitigate risk must be documented prior to closing the inspection in CLASS. These changes require RCCL inspectors to document the ECHR and provide a narrative description of how the ECHR information was considered in a specific section in CLASS before each inspection and to document the steps taken to mitigate risks after the inspection, and also allow HHSC to track compliance with these requirements. *See* RO.22 > Reference Documents provided to the Monitors on 12/31/2020.
16. HHSC has been running reports every weekday since September 2, 2020, when the

enhancements to CLASS were implemented, to track the ECHR timeliness by staff. The reports are sent via email to each regional director, who works with staff to ensure any overdue items are quickly entered. *See* RO.22.6 ECHR Daily Report, which was provided to the Monitors on 12/30/2020.

17. Once the automation enhancements were implemented and reports were generated, HHSC realized that clarification was needed regarding the timeframe to complete the documentation for the steps taken to mitigate risk after the inspection. As a result, HHSC changed the policy requirement for the ECHR steps taken to mitigate risk from 24 hours to one calendar day after the inspection was completed, which allows HHSC to monitor compliance. This change was communicated via Field Communication #292 on October 12, 2020. The CCLPPH was also updated in October 2020 capturing this change. *See* RO 22 > Reference Documents, provided to the Monitors on 12/30/2020.
18. On October 12, 14, and 16, 2020, virtual meetings were held with RCCL staff, including inspectors, to go over, among other things, the requirements of Remedial Order No. 22. A total number of 199 RCCL staff participated in the webinar. In the meeting, Remedial Order No 22 was discussed in great detail. Staff were reminded of the steps to be taken prior to the inspection, the steps to be taken after the inspection, and what should be documented in the narrative boxes. *See* Resource Documents > District Meetings 2020, provided to the Monitors on 12/30/2020.
19. In November 2020, the Performance Management Unit (“PMU”) within CCR reviewed a sample of 35 ECHRs, which is approximately 5% of the 659 inspections conducted during the time frame from September 15, 2020 through October 31, 2020. The purpose of the review was to determine whether RCCL staff were completing required ECHRs in compliance with CCLPPH 4143 (the RCCL policy that provides specific information and timeframes for completing ECHRs) when completing a monitoring, investigation, or monitoring/investigation inspection of a residential child care operation. The review indicated higher overall compliance rates for entering and accurately capturing the data points for the number of abuse/neglect intakes, the number of confirmed findings of abuse/neglect, and the number of corporal punishment deficiencies, as well as accurate capture of the steps taken to address risk during the inspection. *See* RO.22 > Resource Documents, provided to the Monitors on 12/30/2020.
20. The review also indicated that inspectors may need further training to ensure they properly document the assessment of the information reviewed, including any risk identified. As a result, the ECHR job aid was updated on December 31, 2020, to provide additional information on completing the assessment of the information reviewed, including examples of good documentation. *See* RO.22 > Resource Documents, provided to the Monitors on 12/31/2020.
21. On December 18, 2020, the Monitors made HHSC aware of a situation where operations appeared to be voluntarily giving up their license in advance of being placed on the Heightened Monitoring list. It appeared as though these operations then opened another location with the same controlling persons and the same children. These new operations therefore had no five-year history of problems and did not meet the criteria for Heightened

Monitoring.

22. While Heightened Monitoring is not part of Remedial Order No. 22, RCCL analyzes the compliance history of the specific license when completing the ECHR. After reviewing the circumstances outlined by the Monitors in their Dec. 18 email, RCCL started exploring options to address the issue. RCCL determined that implementing the emergency rule-making process would quickly and directly allow RCCL to use compliance history from closed operations with the same controlling persons, which would be included in the ECHR for any new applicant who submits an application for a license on or after the effective date of the emergency rules.
23. The emergency rules were filed with the Texas Register on December 30, 2020, and are effective on December 30, 2020; a copy of those rules were provided to the Monitors on 12/31/2020. The emergency rules will be in effect for 120 days, with a one-time 60-day extension. During this time frame, RCCL will be moving forward with adopting these rules permanently.
24. I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on December 31, 2020.



Lana Estevilla
Deputy Associate Commissioner for Regional Operations
for Child Care Regulation
Texas Health and Human Services Commission